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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 JOSE A. MARTINEZ,

8 Petitioner,

9 v.

10 TIMOTHY WENGLER,

11 Respondent.


Case No. C08-5144FDB

ORDER DENYING CERTIFICATE
OF APPEALABILITY

12 Petitioner moves for a certificate of appealability, asserting sixteen issues that he believes are
13 not procedurally barred. On September 30, 2008, this Court entered an Order Adopting the Report
14 and Recommendation dismissing Martinez's habeas corpus petition as being untimely filed. The
15 Magistrate Judge presented the facts underlying his conclusion that the petition was untimely filed
16 and reached a proper conclusion, which Petitioner has not shown could be found to be debatable or
17 wrong among reasonable jurists. Moreover, this motion for certificate of appealability is untimely
18 under Fed. R. App. P. 4(a)(1)(A), which requires a notice of appeal to be filed in the District Court
19 within 30 days after the judgment or order appealed from is entered.

20 ACCORDINGLY, IT IS ORDERED: Petitioner's Motion for Certificate of Appealability
21 [Dkt. # 26] is DENIED.

22 DATED this 29th day of June, 2009.

23 
24 FRANKLIN D. BURGESS
25 UNITED STATES DISTRICT JUDGE
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